IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Domel	)	Art Unit: 3634
Serial No.: 10/062,655	)	Examiner: Johnson
Filed: February 1, 2002	)	**1006.023**
For: **OPERATING SIGNAL SYSTEM AND METHOD FOR CONTROLLING A MOTORIZED WINDOW COVERING**	)	January 5, 2004 750 B STREET, Suite 3120 San Diego, CA 92101

REPLY BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

This reply brief responds to the Answer dated December 29, 2003.

The allegation in the Answer that the Appeal Brief fails to contain a statement regarding related appeals is incorrect, see Section (2) of the Appeal Brief.

The allegation in the Answer that Appellant's arguments consist only of pointing out non-analogousness and of pointing out that there is no suggestion to combine and that in any case the two references cannot be physically incorporated is an over-simplification of the Appeal Brief. For instance, among other things the Appeal Brief notes that the primary reference uses only a single data signal to undertake both a wake-up function and a command function, to distinguish the present claims.

The observation in the Answer that the door lock of Buccola is analogous to the presently claimed window covering because both relate to power conservation borders on the ridiculous. Under this

interpretation of the "relevant field" what would stop the examiner from using a reference in, say, the art of mobile telephony, or mobile computing, or indeed most any other electricity-related field, all of which are very much directed to and concerned with power conservation? The legerdemain being employed - overly broadly defining what is the "relevant field" - makes up for in chutzpa what it lacks in originality.

Exmr. does not say this →

The contention in the Answer that the two references can be physically incorporated together because all the examiner proposes doing is substituting the transmitting and receiving system of Buccola for that of van Dinteren entirely misses this point of the Appeal Brief, which is (and which remains) that no explanation has been offered of how, precisely, van Dinteren et al. would be modified to incorporate a door lack circuit. If only the relied-upon transceiver system of Buccola is used in van Dinteren et al., where and how would this unsuggested portion be dropped into the circuit of van Dinteren et al., and why would there be a reasonable expectation of success that a door lock transceiver would work in a window blind system? The Answer, like the Sphinx, is silent on these fundamental requirements of a properly made *prima facie* case of obviousness.

The Answer observes that only one signal has been claimed. This is in response to Appellant's arguments that Buccola fails to teach what generates the frequencies, or how the wake up frequency "prepares" the microprocessor for operation, or even that the microprocessor is deenergized until receipt of the wake up frequency. Accordingly, this observation in the Answer is irrelevant, since Appellant was not trying to distinguish the claims over Buccola, but was only pointing out that the teachings of Buccola do not support the examiner's position, which remains unsupported after the Answer. Furthermore, the observation is strange in that all independent claims require a first signal (a wake-up signal) having a first frequency and a second signal (a data signal) having a second frequency different than the first frequency.

The Answer concludes by betraying an almost complete lack of understanding of what the law of obviousness is all about. Specifically, the Answer alleges, in effect, that Appellant has not distinguished the claims from the relied-upon references, but has rather argued only that the references ought not be combined, as though somehow Appellant is conceding a primary point. This is nonsense on two scores. First, it misrepresents the Appeal Brief, but secondly and more fundamentally it ignores the fact that almost all patents are for new combinations of old elements, and that what is at the heart and soul of the law of obviousness is an explanation of why the prior art suggests combining elements from various references as an examiner proposes. Given that three relatively senior examiners at the appeal conference missed what in fact is the basic point of the law of obviousness in parallel, it is not surprising that so many rejections wind up being reversed on appeal.

Respectfully submitted,

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